

MALFIU ENCINAL HOA P. O.
BOX 4307 MALFIU, CA.
90264 31708 BROAD BEACH
ROAD MALFIU, CA. 90265

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December 16, 2004

Mr. Joe Edmiston
MRCA
5750 Ramirez Canyon
Malibu, CA 90265

& CONSERVATION
AUTHORITY - MAT
IAU

Dear Joe:

I appreciated your taking time to meet with the group of MEHOA representatives, and I also appreciated the positive tenor of your remarks. We all came away from the meeting with the feeling that we will be able to agree on a manner of peaceful use of Lechuza Beach. Our schedules unfortunately prevented my getting back to you sooner to explain the workings of MEHOA, the CC&Rs, and the rights of all members as you had requested.

We are pleased that MRCA acknowledges that, as a lot owner in Tract 10630, the MRCA entity named in the deed ("MRCA") is a member of MEHOA and is bound by the same CC&Rs as all MEHOA members. That is in accord with Article IV, section 4.2 of the MEHOA Bylaws, which deem all lot owners to be members of the association. We will add MRCA to our mailing list as well as our dues and assessments list. I know you have a copy of the CC&Rs, but if you do not have a set of the MEHOA Bylaws, please let me know and we will supply one.

The CC&Rs delegate to the MEHOA Board the authority to interpret and enforce the CC&Rs (CC&R section 31), including matters assigned to the Architectural Committee (Bylaws, Article VI, section 6.3[a]; Article VII, section 7.3). The Board therefore provides general guidance regarding the CC&Rs and the uses that may be made under them.

The CC&Rs and Bylaws place restrictions on the use made by any lot owner in order to preserve the rights of all lot owners. In other words, while each of us has the right to use common areas, none of us has the right to make uses that infringe on the peaceful enjoyment of the others.

The rights of lot owners are shaped by the fact that Tract 10630 was designed to be a private "homogeneous community" (Bylaws, Section 7.3.2) of residential homes, and use of the lots is limited to single-family residential use (CC&R Sections 7 and 27). This is emphasized by the designation of the governing body as a "home owners association" (CC&R section 3), rather than a land or property owners association. Thus, the common areas - the access lots and private streets - are private property and have always been used in such a way that the residents who have a right to use them do not overuse, or overburden, the lots to the detriment of others. The internal streets and access ways are private, not public, streets. Consistent with the private, residential limitations of the Tract, certain uses, including nighttime use of the gated streets and

access ways, are limited to residents of single-family homes and their known and personally invited guests. There are also special privately owned lots within the tract called "covenant lots" the use of which is not shared with other owners within the tract.

To maintain conformity with the CC&Rs, the Architectural Committee has approval authority over all construction (CC&R sections 5,7,8,9,10,11,17,18-21,24), specifically including signs (CC&R sections 10 and 11) and outhouses (CC&R sections 11 and 17).

As you know, parking is at a premium in the Tract. The private streets are narrow and parking is restricted to assure safety and access by residents. As you also know, the deeds to MRCA from Mr. Haynie and his organizations transferred only the right to park four vehicles for handicapped persons on Lot A, not general parking for others.

Thus, although all MEHOA members have the right to personally invite guests that they know and are responsible for to enjoy their homes and the Tract's amenities, no MEHOA member has the right to generally invite unknown numbers of unknown people who will have no place to park, and who could interfere with access by residents to their homes and to the beach. The public may have a general right to use the beach below the ordinary high tide line, but that is unrelated to MRCA's lot ownership or the use of the private access ways and streets in the Tract.

That being said, we understand that MRCA acquired the lots in order to preserve them in their current state. We respect and appreciate that. MEHOA has allowed limited, revocable public pedestrian use on some commonly owned walkways in the Tract under posted notice. In keeping with both the residential nature of the Tract, the numbers of public members have always been small. We are willing to recommend to our members that limited public pedestrian use of the commonly owned access ways and streets as permitted before MRCA's purchase, with the addition of the handicap parking mentioned in the Lechuza Villas West deeds, would not likely cause an overuse or overburden the lots and streets shared with the other members of MEHOA. With that amount of public use (that will not endanger the residents or interfere with the residents' own use of the area), we believe the Board can recommend such an arrangement to our members for approval.

There are undoubtedly details that will need to be worked out, but we seem able to agree in principle to use the CC&Rs as the general plan for use and management of the beach. Upon receipt of MRCA's agreement in concept to the principles set forth in this letter, a resolution will be prepared for review and approval by MRCA and the Board of MEHOA reflecting in detail the agreed principles and implementing steps. Upon such approval, the resolution will be submitted to the members of MEHOA for approval with the endorsement of the MEHOA Board.

We look forward to working with MRCA as a full member of MEHOA and a partner with the other lot owners.

Sincerely,

/s/ Cathleen Summers
Cathleen Summers